

Appl. No. 10/619,910
Amdt. Dated September 23, 2005
Reply to Office Action of July 8, 2005

Attorney Docket No. 81918.0003
Customer No. 26021

REMARKS/ARGUMENTS:

Claims 12-14 and 25-34 are canceled without prejudice. Claims 15, 18, 20, and 21 are amended. New claim 36 is added. Claims 15-22, 24, 35, and 36 are pending in the application. Reexamination and reconsideration of the application, as amended, are respectfully requested.

The present invention relates to a novel peptide having osteogenetic activity and an osteogenetic accelerator containing the same as an active ingredient. The peptide of the present invention, which has the osteogenetic activity, is useful for treatment of fractures, as a filler in deficient sites of bone, for inhibition of decrease in bone substance related to osteoporosis and periodontic diseases, for prevention of fractures associated with osteoporosis and rheumatoid arthritis and the like. (Applicant's specification, at p. 1, lines 11-20).

NEW CLAIM OBJECTION:

Claim 15 stands objected to because of the use of the terms "the peptide N-terminal is acetylated" and "the peptide C-terminal is amidated". The Office states, "Use of the terms 'the peptide is N-terminally acetylated' and 'the peptide is C-terminally amidated' is suggested."

The Applicant respectfully disagrees. The Applicant respectfully submits that the use of the terms "the peptide N-terminal is acetylated" and "the peptide C-terminal is amidated" is appropriate. However, in order to expedite the prosecution of the instant application, the Applicant amended the claim in the manner suggested by the Office. Withdrawal of this objection is thus respectfully requested.

CLAIM REJECTIONS UNDER 35 U.S.C. § 102:

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Claims 25-27, 29, 32, and 34 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Oppermann et al. (WO89/09788). This rejection is moot due to the cancellation of these claims.

Claims 25-32 and 34 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Rueger et al. (U.S. Patent No. 6,281,195). This rejection is moot due to the cancellation of these claims.

CLAIM REJECTIONS UNDER 35 U.S.C. § 103:

Claims 15-17, 19, 22, 24-27, 29, and 32-34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Oppermann et al. (WO89/09788) in view of Lipton (U.S. Patent No. 5,028,592). This rejection is moot with respect to claims 25-27, 29, and 32-34 due to the cancellation of these claims. The Applicant respectfully traverses this rejection as to claims 15-17, 19, 22, and 24.

Claims 15-17, 19, 22, and 24 now depend from claim 35. The Office states that "claim 35 is free of art and allowable". Since claims 15-17, 19, 22, and 24 now depend from claim 35, claims 15-17, 19, 22, and 24 are allowable for at least the same reasons as claim 35. Withdrawal of this rejection and allowance of claims 15-17, 19, 22, and 24 is thus respectfully requested.

CLAIM OBJECTION/ALLOWABLE SUBJECT MATTER:

The Office objected to claims 18 and 20-21 as being dependent upon a rejected base claim, but states that the claims "would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims." In response, Applicant rewrote claims 18 and 20 as independent claims. Withdrawal of this objection and allowance of claims 18 and 20 is thus respectfully requested. Amended claim 21 depends from claim 20 and is

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therefore, allowable for at least the same reasons as claim 20. Allowance of claim 21 is therefore, similarly, respectfully requested.

New claim 36 corresponds to claim 21, written in independent form including the limitations of claim 19. Since the Office states that claim 21 "would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims", allowance of new claim 36 is thus respectfully requested.

Applicant believes the foregoing amendments comply with requirements of form and thus may be admitted under 37 C.F.R. § 1.116(b). Alternatively, if these amendments are deemed to touch the merits, admission is requested under 37 C.F.R. § 1.116(c). In this connection, these amendments were not earlier presented because they are in response to the matters pointed out for the first time in the Final Office Action.

Lastly, admission is requested under 37 C.F.R. § 1.116(b) as presenting rejected claims in better form for consideration on appeal.

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance. Reexamination and reconsideration of the application, as amended, are requested.

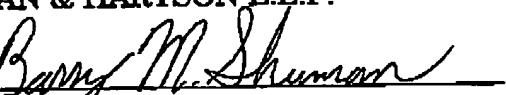
If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles, California telephone number (213) 337-6700 to discuss the steps necessary for placing the application in condition for allowance.

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If there are any fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-1314.

Respectfully submitted,
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